



U.S. Department of Justice

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AES/DGR
F. #2016R00467

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April 5, 2020

The Honorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Tim Leissner
Criminal Docket No. 18-439 (MKB)

In re New York Times Motion for Intervenor Status
Civil Docket No. 19-1133 (MKB)

Dear Judge Brodie:

As the Court is aware, intervenor New York Times (the “Times”) appealed the Court’s November 8, 2018 order (18-CR-439 Dkt. No. 27 (“the Order”)) denying the Times’s request to unseal the entirety of the transcript of the defendant Tim Leissner’s plea hearing on August 28, 2018 (the “Transcript”) in United States v. Tim Leissner, 18-CR-439 (MKB); in its appeal, the Times also challenged the sealing of the Order itself. On March 10, 2020, the Second Circuit issued a summary order affirming the Order in part, vacating the Order in part and remanding the case with instructions. See In Re New York Times, 19-1351 (2d Cir. Mar. 10, 2020).

Specifically, the Second Circuit found that this Court made “specific and detailed factual findings in support of its sealing decision” in the Order, and it agreed with the Court’s conclusion in the Order that the “presumption in favor of public access to the relatively small sealed portion of the [Transcript] was overcome by higher values recognized under our decisions in Brown, Lugosch, and related cases.” Id. at 7. However, after review of the Transcript, the Second Circuit identified two additional small sections of the Transcript that should be unsealed, at “page 44, lines 23–25 and page 46, lines 4–7.” Id. at 8.

In addition, the Second Circuit instructed that certain portions of the Order that the government agreed could be filed publicly should be made public. Id. at 9.¹

In accordance with the Second Circuit's summary order, the government has attached hereto updated redacted versions of the Transcript (Exhibit A) and the Order (Exhibit B). The government will provide electronic versions of Exhibit A and Exhibit B to the Court via email for the Court's review; if the Court agrees that Exhibit A and Exhibit B comport with the Second Circuit's summary order, either the Court or the government can publicly file these revised versions of the Transcript and the Order.

Respectfully submitted,

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Hon. Eugene Sullivan (Ret.), Esq. (by ECF, without attachments)
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¹ Those portions of the Order are as follows: Page 1 through the end of the paragraph that concludes at the top of page 2; Page 2, second full paragraph; Page 2, only the first sentence of the third full paragraph; Page 3, in its entirety, concluding with the first line on page 4; and Page 6, in its entirety. See Gov't Br., In re New York Times, 19-1351, at 36.